BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of **TIMOTHY J. GELETY, M.D.** Holder of License No. **21851** For the Practice of Allopathic Medicine In the State of Arizona.	Board Case No. MD-05-0866A **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER** (Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on February 7, 2008 after the case was remanded from the Arizona Superior Court. The Board voted to issue the following Findings of Fact, Conclusions of Law and Order ("Order") after due consideration of the facts and law applicable to this matter. This Order replaces the previous Findings of Fact, Conclusions of Law and Order issued by the Board on December 7, 2006.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 21851 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-05-0866A after being notified a hospital suspended Respondent's privileges. A Board Medical Consultant subsequently reviewed medical records involving certain of Respondent's patients.

4. On May 27, 2004 Respondent performed laparoscopic surgery on a twenty-eight year-old female patient ("YS"). Post-operatively, YS complained of leg numbness. Anesthesia evaluated YS and tried between 1500 and 2100, without success, to contact Respondent. Anesthesia admitted YS for observation. YS's symptoms resolved and she was discharged on May 28, 2004.

5. Respondent was not concerned about YS's symptoms because it is common for there to be some numbness after surgery when the legs have been in stirrups. Respondent noted even if YS had a nerve injury it was not an acute thing and there was nothing he could do about it – she would have to see a neurologist. Respondent did not examine YS when he received the report of numbness. Respondent was not on-call and at 5:00 when he left the clinic he shut off his cell phone. Respondent did not know if it was clear to staff when he left the hospital that if YS had further difficulties which physician they were to call. Respondent testified there was no acute need for YS to be seen by a neurologist or a surgeon because there was no surgical complication – her vital signs were stable and she was doing fine.

6. When Respondent is not on-call the hospital calls his "on-call" phone number and his nurse practitioner will answer. Respondent was unclear as to whether the "on-call" phone his nurse practitioner answers has the same phone number as his phone or whether there are two on-call numbers. Respondent could only say he knew if the hospital could not contact him, it would contact the nurse practitioner.

7. The standard of care required Respondent to be immediately available to evaluate and treat post-operative complications unless he made other coverage arrangements.

8. Respondent deviated from the standard of care because he was not immediately available following YS's surgery to evaluate and treat her post-operative complication and because he did not make coverage arrangements.

9. Although YS's post-operative complication was mild, there was a potential for more severe problems to present and significant complications could have ensued.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact

described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to 32-1401(27)(q) ("[a]ny conduct or practice which is or might be harmful or dangerous to the health of the patient or the public").

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

Respondent is issued a Letter of Reprimand for not being available in a timely fashion to evaluate a post-operative patient.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 3rd day of April, 2008.

ARIZONA MEDICAL BOARD

By _____
Lisa S. Wynn
Executive Director

ORIGINAL of the foregoing filed this 3rd day of August, 2008 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Mail this 3rd day of August, 2008, to:

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Timothy J. Gelety, M.D.
Address of Record